

## CODIFICATION

Section was enacted as part of the Innocence Protection Act 2004 and also as part of the Justice for All Act of 2004, and not as part of Violent Crime Control and Law Enforcement Act of 1994 which enacted this chapter.

### § 14163a. Capital prosecution improvement grants

#### (a) In general

The Attorney General shall award grants to States for the purpose of enhancing the ability of prosecutors to effectively represent the public in State capital cases.

#### (b) Use of funds

##### (1) Permitted uses

Grants awarded under subsection (a) of this section shall be used for one or more of the following:

(A) To design and implement training programs for State and local prosecutors to ensure effective representation in State capital cases.

(B) To develop and implement appropriate standards and qualifications for State and local prosecutors who litigate State capital cases.

(C) To assess the performance of State and local prosecutors who litigate State capital cases, provided that such assessment shall not include participation by the assessor in the trial of any specific capital case.

(D) To identify and implement any potential legal reforms that may be appropriate to minimize the potential for error in the trial of capital cases.

(E) To establish a program under which State and local prosecutors conduct a systematic review of cases in which a death sentence was imposed in order to identify cases in which post-conviction DNA testing may be appropriate.

(F) To provide support and assistance to the families of murder victims.

##### (2) Prohibited use

Grants awarded under subsection (a) of this section shall not be used to fund, directly or indirectly, the prosecution of specific capital cases.

(Pub. L. 108-405, title IV, §422, Oct. 30, 2004, 118 Stat. 2288.)

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### § 14163b. Applications

#### (a) In general

The Attorney General shall establish a process through which a State may apply for a grant under this part.

#### (b) Application

##### (1) In general

A State desiring a grant under this part shall submit an application to the Attorney

General at such time, in such manner, and containing such information as the Attorney General may reasonably require.

#### (2) Contents

Each application submitted under paragraph (1) shall contain—

(A) a certification by an appropriate officer of the State that the State authorizes capital punishment under its laws and conducts, or will conduct, prosecutions in which capital punishment is sought;

(B) a description of the communities to be served by the grant, including the nature of existing capital defender services and capital prosecution programs within such communities;

(C) a long-term statewide strategy and detailed implementation plan that—

(i) reflects consultation with the judiciary, the organized bar, and State and local prosecutor and defender organizations; and

(ii) establishes as a priority improvement in the quality of trial-level representation of indigents charged with capital crimes and trial-level prosecution of capital crimes;

(D) in the case of a State that employs a statutory procedure described in section 14163(e)(1)(C) of this title, a certification by an appropriate officer of the State that the State is in substantial compliance with the requirements of the applicable State statute; and

(E) assurances that Federal funds received under this part shall be—

(i) used to supplement and not supplant non-Federal funds that would otherwise be available for activities funded under this part; and

(ii) allocated in accordance with section 14163e(b) of this title.

(Pub. L. 108-405, title IV, §423, Oct. 30, 2004, 118 Stat. 2288.)

## CODIFICATION

Section was enacted as part of the Innocence Protection Act 2004 and also as part of the Justice for All Act of 2004, and not as part of Violent Crime Control and Law Enforcement Act of 1994 which enacted this chapter.

### § 14163c. State reports

#### (a) In general

Each State receiving funds under this part shall submit an annual report to the Attorney General that—

(1) identifies the activities carried out with such funds; and

(2) explains how each activity complies with the terms and conditions of the grant.

#### (b) Capital representation improvement grants

With respect to the funds provided under section 14163 of this title, a report under subsection (a) of this section shall include—

(1) an accounting of all amounts expended;

(2) an explanation of the means by which the State—

(A) invests the responsibility for identifying and appointing qualified attorneys to

represent indigents in capital cases in a program described in section 14163(e)(1)(A) of this title, an entity described in section 14163(e)(1)(B) of this title, or a selection committee or similar entity described in section 14163(e)(1)(C) of this title; and

(B) requires such program, entity, or selection committee or similar entity, or other appropriate entity designated pursuant to the statutory procedure described in section 14163(e)(1)(C) of this title, to—

(i) establish qualifications for attorneys who may be appointed to represent indigents in capital cases in accordance with section 14163(e)(2)(A) of this title;

(ii) establish and maintain a roster of qualified attorneys in accordance with section 14163(e)(2)(B) of this title;

(iii) assign attorneys from the roster in accordance with section 14163(e)(2)(C) of this title;

(iv) conduct, sponsor, or approve specialized training programs for attorneys representing defendants in capital cases in accordance with section 14163(e)(2)(D) of this title;

(v) monitor the performance and training program attendance of appointed attorneys, and remove from the roster attorneys who fail to deliver effective representation or fail to comply with such requirements as such program, entity, or selection committee or similar entity may establish regarding participation in training programs, in accordance with section 14163(e)(2)(E) of this title; and

(vi) ensure funding for the cost of competent legal representation by the defense team and outside experts selected by counsel, in accordance with section 14163(e)(2)(F) of this title, including a statement setting forth—

(I) if the State employs a public defender program under section 14163(e)(1)(A) of this title, the salaries received by the attorneys employed by such program and the salaries received by attorneys in the prosecutor's office in the jurisdiction;

(II) if the State employs appointed attorneys under section 14163(e)(1)(B) of this title, the hourly fees received by such attorneys for actual time and service and the basis on which the hourly rate was calculated;

(III) the amounts paid to non-attorney members of the defense team, and the basis on which such amounts were determined; and

(IV) the amounts for which attorney and non-attorney members of the defense team were reimbursed for reasonable incidental expenses;

(3) in the case of a State that employs a statutory procedure described in section 14163(e)(1)(C) of this title, an assessment of the extent to which the State is in compliance with the requirements of the applicable State statute; and

(4) a statement confirming that the funds have not been used to fund representation in

specific capital cases or to supplant non-Federal funds.

**(c) Capital prosecution improvement grants**

With respect to the funds provided under section 14163a of this title, a report under subsection (a) of this section shall include—

(1) an accounting of all amounts expended;

(2) a description of the means by which the State has—

(A) designed and established training programs for State and local prosecutors to ensure effective representation in State capital cases in accordance with section 14163a(b)(1)(A) of this title;

(B) developed and implemented appropriate standards and qualifications for State and local prosecutors who litigate State capital cases in accordance with section 14163a(b)(1)(B) of this title;

(C) assessed the performance of State and local prosecutors who litigate State capital cases in accordance with section 14163a(b)(1)(C) of this title;

(D) identified and implemented any potential legal reforms that may be appropriate to minimize the potential for error in the trial of capital cases in accordance with section 14163a(b)(1)(D) of this title;

(E) established a program under which State and local prosecutors conduct a systematic review of cases in which a death sentence was imposed in order to identify cases in which post-conviction DNA testing may be appropriate in accordance with section 14163a(b)(1)(E) of this title; and

(F) provided support and assistance to the families of murder victims; and

(3) a statement confirming that the funds have not been used to fund the prosecution of specific capital cases or to supplant non-Federal funds.

**(d) Public disclosure of annual State reports**

The annual reports to the Attorney General submitted by any State under this section shall be made available to the public.

(Pub. L. 108–405, title IV, §424, Oct. 30, 2004, 118 Stat. 2289.)

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Section was enacted as part of the Innocence Protection Act 2004 and also as part of the Justice for All Act of 2004, and not as part of Violent Crime Control and Law Enforcement Act of 1994 which enacted this chapter.

**§ 14163d. Evaluations by Inspector General and administrative remedies**

**(a) Evaluation by Inspector General**

**(1) In general**

As soon as practicable after the end of the first fiscal year for which a State receives funds under a grant made under this part, the Inspector General of the Department of Justice (in this section referred to as the "Inspector General") shall—

(A) submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Sen-